

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 CIAE-00 INR-07

NSAE-00 L-03 OMB-01 TRSE-00 NSCE-00 LAB-04 SIL-01

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R 130640Z AUG 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 8860

INFO SECDEF WASHDC

JCS WASHDC

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL SUBIC

CG 13TH AF CLARK

C O N F I D E N T I A L SECTION 1 OF 3 MANILA 12161

FROM USDEL 204

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: LABOR

1. SUMMARY: PROVIDES QUOTED LATEST LABOR ARTICLE PROVISIONS ON WHICH US AND RP LABOR WORKING GROUP HAS AGREED AD REFERENDUM. PARENTHESES REFLECT RESPECTIVE US AND RP DIFFERING POSITIONS ON EACH PROVISION. TEXT REFLECTS SEVERAL NEW PHIL PROPOSALS, RESULTING IN GREATER DIFFERENCE BETWEEN US AND RP POSITIONS THAN THOSE RECAPPED IN MANILA 11222/200128Z JUL 76 (USDEL 165). END SUMMARY.

2. AS REPORTED IN RECENT DAILY SUMMARIES (USDEL 189 AND 200) RP LABOR GROUP BECAME MORE INTRANSIGENT IN PAST SEVEN DAYS AND TABLED REVISED PHIL POSITIONS ON SEVERAL SUBJECTS ON 9 AUGUST. THESE RESULT IN GREATER DIFFERENCES BETWEEN US AND RP POSITIONS THAN THOSE RECAPPED IN USDEL 165. OUR
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SUBSEQUENT MEETINGS THIS WEEK WITH LABOR UNDERSECRETARY

INCIONG IN LABOR WORKING GROUP AND IN US-RP PANEL CHAIRMEN'S SESSION FAILED TO BRING RP POSITIONS BACK TO THEIR LAST WEEK'S AD REFERENDUM STANCE. FULL REASON FOR RP CHANGE NOT KNOWN; IN PART, INCIONG REFERENCED IN WORKING GROUP HIS PANEL PRINCIPALS' INSTRUCTIONS FOR TIGHTENING CERTAIN PROVISIONS, NAMELY PREFERENTIAL EMPLOYMENT AND RIF. ADDITIONALLY, HE HAS BECOME MORE FREQUENTLY VOCAL ON POSITION THAT PHIL LABOR LAWS AND REGULATIONS APPLY AND THESE NEGOTIATIONS CONSTITUTE EXCEPTIONS THERETO.

3. THIS CURRENT STANDSTILL IS LOGICAL RESULT OF BASIC CONCEPT DIFFERENCE BETWEEN US AND RP PANELS ON WHETHER WE ARE NEGOTIATING MODIFICATIONS TO THE US-RP BASE LABOR AGREEMENT(BLA) OF 1968 OR EXCEPTIONS TO PHIL LAW. THIS IS ONLY ONE OF SOME 25 IMPORTANT ISSUES IN OVERALL NEGOTIATIONS SEEMING TO REQUIRE POLITICAL DECISION FOR RESOLUTION. I DO NOT RPT NOT CONSIDER THIS LABOR ISSUE AT THIS TIME AS CRITICAL ENOUGH TO PROLONG TALKS ON OVERALL FACILITIES AGREEMENT OR TO WARRANT REMAINING LABOR ISSUE TO SEPARATE RENEGOTIATION OF BLA (REFERENCE GUIDELINE STATE 180869/212313Z JUL 76.) THERE ARE ADVANTAGES TO LETTING CURRENT POSITIONS ON LABOR JELL FOR TIME BEING WHILE WE ASSESS ALL MAJOR ISSUES REQUIRING RESOLUTION. IF EVER NECESSARY TO REMOVE LABOR FROM THESE FACILITIES AGREEMENT NEGOTIATIONS FOR SEPARATE NEGOTIATIONS BELIEVE WE CAN ANTICIPATE MUCH LESS FAVORABLE OUTCOME IN THOSE NEGOTIATIONS AS RESULT OF SIGNIFICANT PUBLICITY, HENCE MORE PUBLIC AND UNION REACTION WITH ATTENDANT PRESSURES, AND POSSIBLY WORK STOPPAGES AT THE BASES.

4. FOLLOWING QUOTED TEXT OF LABOR ARTICLE PROVIDED FOR INFORMATION, REFLECTS LATEST US AND RP RESPECTIVE POSITIONS AD REFERENDUM (DIFFERENCES IN PARENTHESES). SOME NEW PROVISIONS AND SUBJECTS INITIATED BY RP SIDE. US POSITION ON THESE REFERS TO BLA.

QUOTE:

1. (US: WITH A VIEW TOWARDS CONTINUING FAVORABLE EMPLOYER-EMPLOYEE RELATIONS IN THE U.S. FACILITIES; TO CONFIDENTIAL

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PROVIDE FOR THE APPLICATION OF RELEVANT LABOR STANDARDS ESTABLISHED BY PHILIPPINE LAWS, RULES AND REGULATIONS; AND TO ENSURE THE ORDERLY ADMINISTRATION AND EFFECTIVE OPERATION OF THE BASE FACILITIES, THE PROVISIONS OF THE BASE LABOR AGREEMENT OF 1968 AND THE AGREED MINUTES THERETO, AS MODIFIED BY THE FOLLOWING PROVISIONS OF THIS ARTICLE, SHALL GOVERN AND REGULATE THE EMPLOYMENT OF PHILIPPINE CITIZENS WHO ARE DIRECT HIRE EMPLOYEES OF THE

U.S. ARMED FORCES IN THE PHILIPPINES.)
(RP: PHILIPPINE LABOR AND SOCIAL LAWS, RULES AND REGULATIONS, AS MODIFIED BY THE PROVISIONS OF THIS ARTICLE, SHALL GOVERN EMPLOYER-EMPLOYEE RELATIONS IN THE FACILITIES.)

2. RECRUITMENT. - RECRUITMENT OF FILIPINO EMPLOYEES WHO ARE NOT FORMER EMPLOYEES, CHILDREN OF DECEASED OR RETIRED EMPLOYEES OR IN OTHER SIMILAR SPECIAL CATEGORIES WILL BE ACCOMPLISHED FROM LISTS OF QUALIFIED APPLICANTS SUBMITTED BY THE PUBLIC EMPLOYMENT OFFICES (PEO) OF THE PHILIPPINE DEPARTMENT OF LABOR IN RESPONSE TO RECRUITMENT REQUESTS FROM THE FACILITIES. SELECTION WILL BE MADE BY FACILITIES COMMANDERS OR REPRESENTATIVE. VACANT POSITIONS WILL BE FILLED FIRST FROM WITHIN THE RANKS OF PRESENT OR FORMER FACILITY DIRECT HIRE EMPLOYEES WHO WERE NOT

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R 130640Z AUG 76
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C O N F I D E N T I A L SECTION 2 OF 3 MANILA 12161

FROM USDEL 204

SEPARATED FOR CUASE OR SPECIAL CATEGORY CANDIDATES BEFORE
ASSISTANCE IS SOUGHT FROM PEO. FACILITIES PERSONNEL

OFFICES MAY DIRECT PERSONS TO THE PEO AND REQUEST THAT THEIR NAMES BE INCLUDED ON LISTS TO BE FURNISHED. ADDITIONAL LISTS MAY BE REQUESTED FOR THE SAME JOB VACANCY IN THE EVENT SUFFICIENT QUALIFIED PERSONS ARE NOT CONSIDERED TO BE LISTED SO THAT A CHOICE IS AVAILABLE FROM SEVERAL BASICALLY QUALIFIED PERSONS. IN THE EVENT THE PEO DOES NOT FURNISH SUFFICIENT QUALIFIED APPLICANTS WITHIN A PERIOD OF TWO WEEKS FROM THE DATE OF RECRUITMENT, REQUEST DELIVERY, UNITED STATES FACILITIES MAY RECRUIT DIRECTLY. THE FACILITIES SHALL SUBMIT TO THE NEAREST PEO A QUARTERLY REPORT OF EMPLOYEES HIRED DIRECTLY

3. REDUCTION-IN-FORCE. - (RP: THE FACILITIES SHALL PROVIDE SECURITY OF EMPLOYMENT.) NO SEPARATION OF FILIPINO EMPLOYEES BY REDUCTION-IN-FORCE SHALL BE EFFECTED UNLESS
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THE EMPLOYEE CONCERNED, AND THE PHILIPPINE BASE COMMANDER, HAVE BEEN NOTIFIED AT LEAST 30 CALENDAR DAYS PRIOR TO THE DATE OF THE EMPLOYEE'S PROJECTED SEPARATION. THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER SHALL AT EITHER'S REQUEST, MADE WITHIN 10 CALENDAR DAYS OF SUCH NOTIFICATION OF SEPARATION, REVIEW THE MATTER (US: WITH A VIEW TO MITIGATING THE ADVERSE EFFECTS THEREOF). (RP: NO REDUCTION-IN-FORCE SHALL BE EFFECTED FOR THE PURPOSE OF CONTRACTING OUT THE JOBS OF ANY DIRECT HIRE FILIPINO EMPLOYEES. PERSONNEL SEPARATED BY REDUCTION-IN-FORCE SHALL RECEIVE SEVERANCE PAY AT LEAST DOUBLE THE SEVERANCE PAY NORMALLY GIVEN TO SEPARATED EMPLOYEES.)

4. PREFERENTIAL EMPLOYMENT. - (US: THE PROVISIONS OF ARTICLE I, PARA 1, BLA, AND AGREED MINUTES THERETO, APPLY IN THE MATTER OF PREFERENTIAL EMPLOYMENT. WHEN A NEW US CITIZEN POSITION IS ESTABLISHED, THE PHILIPPINE BASE COMMANDER WILL BE GIVEN WRITTEN NOTICE AT LEAST 10 CALENDAR DAYS PRIOR TO THE POSITION BEING FILLED. IN THE EVENT THAT NO OBJECTION IS MADE WITHIN THAT 10 DAY PERIOD, THE POSITION MAY BE FILLED. IF DURING THAT PERIOD, THE PHILIPPINE BASE COMMANDER OBJECTS TO THE FILLING OF A NEW POSITION WITH A U.S. CITIZEN, CONSULTATIONS SHALL BE HELD BETWEEN THAT COMMANDER AND THE U.S. FACILITIES COMMANDER. IF THE QUESTION CANNOT BE RESOLVED, IT SHALL BE ELEVATED TO THE JOINT COMMITTEE FOR FINAL DETERMINATION. WHILE THE MATTER IS BEING ADJUDICATED THE POSITION MAY BE FILLED TEMPORARILY BY A U.S. CITIZEN CIVILIAN EMPLOYEE.) (RP: ALL CIVILIAN POSITIONS IN THE FACILITIES SHALL BE FILLED BY PHILIPPINE CITIZENS. MOREOVER, AT THE REQUEST OF EITHER SIDE AND WITH THE VIEW TO FILIPINIZING THEM, POSITIONS CURRENTLY FILLED BY U.S. CITIZENS SHALL BE REVIEWED BY THE TWO PARTIES. HOWEVER, POSITIONS WHICH ARE DEEMED BY THE PARTIES TO BE

SECURITY AND POLICY POSITIONS MAY CONTINUE TO BE FILLED BY U.S. CITIZENS, PROVIDED, HOWEVER, THAT ANY U.S. CITIZEN APPOINTED TO ANY POSITION NEEDED FOR SECURITY REASONS SHALL BE COVERED BY APPROPRIATE SECURITY CLEARANCES ISSUED BY THE U.S. FACILITIES COMMANDER BUT WHICH ARE SUBJECT TO JOINT EXAMINATION AND VERIFICATION BY BOTH PARTIES. IN ANY EVENT, ONLY U.S. CITIZENS WITH APPROPRIATE WORK PERMITS ISSUED BY THE PHILIPPINE DEPARTMENT OF LABOR MAY BE EMPLOYED IN THE CONFIDENTIAL

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FACILITIES.)

5. SEVERANCE PAY. - (US: ARTICLE I, PARAGRAPH 7, BLA AND AGREED MINUTES THERETO GOVERN THE MATTER OF SEVERANCE PAY.) (RP: EXCEPT WHEN SEPARATION IS FOR CAUSE, SEVERANCE PAY BENEFITS SHALL BE GRANTED TO EMPLOYEES WHOSE EMPLOYMENT IS TERMINATED INVOLUNTARILY, INCLUDING TERMINATION BY REDUCTION IN FORCE CAUSED BY CLOSURE, DISESTABLISHMENT, OR DEACTIVATION OF A FUNCTION, ACTIVITY, COMMAND, OR FACILITY. FOR PURPOSES OF COMPUTING SEVERANCE PAY, THE BASIS SHALL BE THE EMPLOYEE'S TOTAL OR AGGREGATE SERVICE WITH THE UNITED STATES GOVERNMENT, AT THE RATE OF NOT LESS THAN ONE MONTH PAY FOR EVERY YEAR OF SERVICE, LESS PERIODS OF SERVICE FOR WHICH THE EMPLOYEE HAD ALREADY BEEN PAID SEVERANCE PAY. NOTICE PERIODS SHALL NOT BE DEDUCTED FROM SEVERANCE PAY.)

6. PAYROLL DEDUCTIONS. - THE UNITED STATES FACILITIES COMMANDER SHALL (US: WITH RESPECT TO DIRECT HIRE EMPLOYEES WHO ARE PHILIPPINE CITIZENS) EFFECT KUS: THE FOLLOWING) PAYROLL DEDUCTIONS (RP: REQUIRED BY PHILIPPINE LAWS, RULES, AND REGULATIONS, INCLUDING) INCOME TAX; SOCIAL SECURITY SYSTEM PREMIUMS; PAYMENTS FOR HOUSING, SALARY, AND/OR EDUCATIONAL LOANS; (RP: AGENCY FEES, AND OTHER MANDATORY ASSESSMENTS UNDER THE PHILIPPINE LABOR CODE). (RP: ALL DIRECT HIRE FILIPINO EMPLOYEES IN THE FACILITIES, WHETHER PAID FROM APPROPRIATED OR NONAPPROPRIATED FUNDS, SHALL BE COVERED BY RATES UNDER THE U.S. FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED.) EXCEPT FOR UNION DUES (RP: AGENCY FEES, AND OTHER MANDATORY UNION ASSESSMENTS), WHICH SHALL BE REMITTED DIRECTLY TO THE RECOGNIZED COLLECTIVE BARGAINING ORGANIZATION, SUCH DEDUCTIONS WILL BE REMITTED TO THE APPROPRIATE PHILIPPINE GOVERNMENT AGENCY. (US: ANY OTHER DEDUCTIONS PROVIDED FOR IN PHILIPPINE LAWS, RULES AND REGULATIONS MAY BE EFFECTED WHEN AGREED UPON BY BOTH PARTIES TO THIS AGREEMENT.)

7. REGULAR MID-YEAR BONUS. - (US: ARTICLE V, BLA GOVERNS IN THE MATTER OF MID-YEAR BONUS.) (RP: IN VIEW OF THE CONCERN OF BOTH GOVERNMENTS FOR THE GENERAL WELFARE OF THE EMPLOYEES IN THE FACILITIES, THE UNITED STATES GOVERNMENT

SHALL IN ADDITION TO OTHER BONUSES OR SIMILAR BENEFITS PRO-
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VIDED FOR IN COLLECTIVE AGREEMENTS PAY EACH PHILIPPINE
CITIZEN UNDER ITS EMPLOY A MID-YEAR BONUS EQUIVALENT TO AT
LEAST ONE-MONTH PAY ON THE FIFTEENTH DAY OF MAY OF EACH
YEAR. THOSE EMPLOYED FOR LESS THAN ONE YEAR ON THE DATE
OF PAYMENT SHALL BE PAID A PRORATA SHARE FOR EACH FULL
MONTH OF EMPLOYMENT.)

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NSAE-00 L-03 OMB-01 TRSE-00 NSCE-00 LAB-04 SIL-01

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R 130640Z AUG 76
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 8862
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8. DETERMINING WAGES AND COMPENSATION. - (US: CONDI-
TIONS OF EMPLOYMENT AS THEY RELATE TO WAGES AND COMPENSA-
TION SHALL BE DETERMINED IN THE MANNER DESCRIBED IN
ARTICLE I, PARAGRAPH 1, BLA, AND AGREED MINUTES THERETO.)

(RP: THE FACILITIES AND THE RECOGNIZED COLLECTIVE BARGAINING UNION SHALL JOINTLY FIX WAGES, FRINGE BENEFITS AND OTHER COMPENSATION THROUGH PERIODIC TECHNICAL SURVEYS OF PREVAILING STANDARDS AND PRACTICES OF REPRESENTATIVE PROGRESSIVE EMPLOYERS. JOINTLY, THEY SHALL SELECT THE COMPANIES TO BE SURVEYED; DETERMINE THE METHODOLOGY OF THE SURVEY; AND REVIEW AND TRANSLATE THE SURVEY RESULTS INTO NEW WAGE SCALES, FRINGE BENEFITS, AND OTHER COMPENSATION.)

9. RESOLUTION OF DISPUTES.

A. DISPUTES ARISING FROM OR AFFECTING EMPLOYER-EMPLOYEE RELATIONS IN THE FACILITIES WHICH ARE NOT SETTLED
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AT A LOWER LEVEL SHALL BE REFERRED TO THE PHILIPPINE BASE COMMANDER AND THE US FACILITIES COMMANDER FOR JUST, SPEEDY, FINAL, AND BINDING JOINT RESOLUTION. IF NO RESOLUTION IS REACHED WITHIN 20 WORKING DAYS, THE TWO COMMANDERS SHALL REFER THE CASE TO THE JOINT COMMITTEE (US: ESTABLISHED UNDER THE PROVISIONS OF ARTICLE II OF THE BLA) FOR FINAL DECISION OR DISPOSITION.

B. ORDINARY GRIEVANCES, DISCIPLINARY ACTIONS IMPOSING A PENALTY OF LESS THAN FIVE (5) WORKDAYS SUSPENSION, AND MATTERS FOR TECHNICAL REVIEW WHEN SEPARATION OF THE EMPLOYEE IS NOT INVOLVED IN THE ISSUE SHALL BE RESOLVED IN ACCORDANCE WITH THE COLLECTIVE BARGAINING AGREEMENTS IN EFFECT AT THE TIME THE DISPUTE ARISES, RATHER THAN IN ACCORDANCE WITH PARAGRAPH A, ABOVE.

C. (US: DISAGREEMENTS REGARDING THE INTERPRETATION OF TECHNICAL SURVEY FINDINGS ON WAGES AND FRINGE BENEFITS WILL BE RESOLVED IN ACCORDANCE WITH THE BLA, RATHER THAN IN ACCORDANCE WITH PARAGRAPH A ABOVE.)

D. (US: THE PROCEDURES DISCUSSED IN PARAGRAPHS A, B, AND C ABOVE CONSTITUTE THE SOLE RECOURSE IN EMPLOYER-EMPLOYEE DISPUTES.)

10. ORGANIZATION FOR COLLECTIVE BARGAINING. - (US: PROVISIONS OF BLA AND AGREED MINUTES THERETO, APPLY. COLLECTIVE BARGAINING ORGANIZATIONS RECOGNIZED UNDER ARTICLE II OF THE BASE LABOR AGREEMENT WILL BE ORGANIZED AND WILL OPERATE IN COMPLIANCE WITH PHILIPPINE STANDARDS. SUCH ORGANIZATIONS RECOGNIZED AT THE TIME THIS AGREEMENT ENTERS INTO FORCE WILL BE PERMITTED ONE YEAR IN WHICH TO ATTAIN SUCH FULL COMPLIANCE.) (RP: FILIPINO EMPLOYEES IN THE FACILITIES SHALL HAVE THE RIGHT TO SELF ORGANIZATION AND TO FREE COLLECTIVE BARGAINING. THE RIGHT TO SELF-ORGANIZATION AND REPRESENTAT-

TION IN THE FACILITIES SHALL BE GOVERNED BY THE LABOR CODE
OF THE PHILIPPINES.)

11. NON REDUCTION OF BENEFITS. - (RP: NOTHING HEREIN
SHALL PREVENT THE EMPLOYER AND HIS EMPLOYEES FROM ENTERING
INTO ANY AGREEMENT WITH TERMS MORE FAVORABLE TO THE
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EMPLOYEES THAN THOSE PROVIDED HEREIN, OR BE CONSTRUED TO
SANCTION THE DIMINUTION IN ANY WAY OF ANY BENEFIT GRANTED TO
THE EMPLOYEES OF THE FACILITIES UNDER EXISTING COLLECTIVE
AGREEMENTS, VOLUNTARY EMPLOYER PRACTICE, AND PHILIPPINE
LAWS.) (US: ARTICLE VI, PARAGRAPH 2, BLA AND AGREED
MINUTES THERETO, APPLY.)

12. NON-DISCRIMINATION. - (US: ARTICLE I, PARA 2, BLA,
AND AGREED MINUTES APPLY.) (RP: THE PARTIES TO THIS
AGREEMENT RECOGNIZE THE RIGHT OF EVERY INDIVIDUAL
AGAINST ANY FORM OF DISCRIMINATION IN EMPLOYMENT PARTICULARLY
WITH RESPECT TO HIS COMPENSATION, TERMS AND CONDITIONS OR
PRIVILEGES OF EMPLOYMENT ON THE BASIS OF RACE, COLOR,
REGION, AGE, SEX, CITIZENSHIP, NATIONAL ORIGIN, SOURCES
OF FUNDS USED OR OTHER STATUS.)

13. CONTRACTING OUT. - (US: THE PROVISIONS OF ARTICLE I,
PARAGRAPH 6, AND ARTICLE IV, PARAGRAPH 1, BLA, PLUS THE
AGREED MINUTES THERETO, GOVERN THE MATTER OF CONTRACTING
OUT.) (RP: THE FACILITIES SHALL MAKE PROVISIONS IN THE
CONTRACTS OR CONCESSION AGREEMENTS TO ENABLE CONTRACTORS
AND CONCESSIONARIES TO COMPLY WITH THE PREVAILING
STANDARDS AND PRACTICES IN THE FACILITIES AND UNDER PHILIP-
PINE LABOR LAWS AND REGULATIONS. THE FACILITIES SHALL ASSIST
THE PHILIPPINE DEPARTMENT OF LABOR IN THE ENFORCEMENT OF
PHILIPPINE LAWS AND REGULATIONS. THE FACILITIES SHALL
SUBMIT ANNUALLY TO THE PHILIPPINE DEPARTMENT OF LABOR A
LIST OF CONTRACTORS AND CONCESSIONARIES AND COPIES OF
THEIR CONTRACTS AND CONCESSION AGREEMENTS.)

14. COMMITTEE ON LABOR. - (US: THE JOINT COMMITTEE
SHALL FUNCTION AS DESCRIBED IN THE BLA. ADDITIONALLY,
WHEN SO SPECIFIED IN THIS ARTICLE, THE JOINT COMMITTEE
SHALL HAVE THE AUTHORITY TO MAKE FINAL BINDING DECISIONS
IN THE MATTER REVIEWED.) (RP: A COMMITTEE ON LABOR COM-
POSED OF FOUR REPRESENTATIVES OF EACH GOVERNMENT IS HEREBY
CREATED. THE COMMITTEE SHALL DETERMINE ITS OWN PROCEDURES.
THE GOVERNMENTS OF THE PHILIPPINES AND OF THE UNITED STATES
THROUGH THEIR RESPECTIVE AUTHORIZED AGENCIES OR REPRESENTATIVES SHALL, UPON REQUEST OF EITHER PARTY, MAKE AVAILABLE
TO THE COMMITTEE ALL PERTINENT MATERIALS, DATA OR INFORMATION,
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EXCEPT THOSE WHICH ARE CLASSIFIED FOR SECURITY REASONS.)
END QUOTE.

5. NO ACTION REQUESTED. TEXT QUOTED FOR INFORMATION.
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Message Attributes

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